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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

EMELIA M. PASTERNAK,

Plaintiff,

vs.

TRANS UNIONS, LLC, EXPERIAN  
INFORMATION SOLUTIONS, INC.,  
EQUIFAX INFORMATION  
SERVICES, LLC, and CAPITAL ONE  
BANK, a national association

Defendants.

Case No. 3:07-cv-04980-MJJ

**ANSWER AND AFFIRMATIVE  
DEFENSES OF DEFENDANT  
TRANS UNION LLC TO  
PLAINTIFF'S COMPLAINT**

Defendant Trans Union LLC ("Trans Union") hereby answers the averments contained in the Complaint of Emelia M. Pasternak ("Plaintiff"). Trans Union's answers to Plaintiff's averments are intended to apply to Trans Union's actions and do not speak to the actions of other entities or persons.

1. Answering paragraph 1, Trans Union admits that this Court has jurisdiction as Plaintiff purportedly brings this action under the Fair Credit Reporting Act ("FCRA"), codified at 15 U.S.C. §§1681 *et seq.* Trans Union, however, denies any implication that it is liable to Plaintiff or that Plaintiff's Complaint states a cause of action against Trans Union.

2. Answering paragraph 2, Trans Union denies the allegations of this paragraph.

1                   3.     Answering paragraph 3, Trans Union denies the allegations of this  
2 paragraph.

3                   4.     Answering paragraph 4, Trans Union denies the allegations of this  
4 paragraph.

5                   5.     Answering paragraph 5, Trans Union lacks sufficient information  
6 or belief to admit or deny the averments of this paragraph, and on that basis denies  
7 them.

8                   6.     Answering paragraph 6, Trans Union admits the averments of this  
9 paragraph.

10                  7.     Answering paragraph 7, Trans Union admits the averments of this  
11 paragraph.

12                  8.     Answering paragraph 8, Trans Union admits the averments of this  
13 paragraph.

14                  9.     Answering paragraph 9, Trans Union admits the averments of this  
15 paragraph.

16                  10.    Answering paragraph 10, Trans Union admits the averments of  
17 this paragraph.

18                  11.    Answering paragraph 11, Trans Union incorporates by reference  
19 its answers to paragraphs 1 through 10 above as though fully set forth herein.

20                  12.    Answering paragraph 12, the cited statutes speak for themselves.

21                  13.    Answering paragraph 13, Trans Union lacks sufficient information  
22 or belief to admit or deny the averments of this paragraph, and on that basis denies  
23 them.

24                  14.    Answering paragraph 14, Trans Union lacks sufficient information  
25 or belief to admit or deny the averments of this paragraph, and on that basis denies  
26 them.

27                  15.    Answering paragraph 15, Trans Union lacks sufficient information  
28 or belief to admit or deny the averments of this paragraph, and on that basis denies

1 them.

2           16. Answering paragraph 16, Trans Union lacks sufficient information  
3 or belief to admit or deny the averments of this paragraph, and on that basis denies  
4 them.

5           17. Answering paragraph 17, Trans Union lacks sufficient information  
6 or belief to admit or deny the averments of this paragraph, and on that basis denies  
7 them.

8           18. Answering paragraph 18, Trans Union lacks sufficient information  
9 or belief to admit or deny the averments of this paragraph, and on that basis denies  
10 them.

11           19. Answering paragraph 19, Trans Union denies the allegations of  
12 this paragraph.

13           20. Answering paragraph 20, Trans Union denies the allegations of  
14 this paragraph.

15           21. Answering paragraph 21, Trans Union denies the allegations of  
16 this paragraph.

17           22. Answering paragraph 22, Trans Union denies the allegations of  
18 this paragraph.

19           23. Answering paragraph 23, Trans Union denies the allegations of  
20 this paragraph.

21           24. Answering paragraph 24, Trans Union incorporates by reference  
22 its answers to paragraphs 1 through 10 above as though fully set forth herein.

23           25. Answering paragraph 25, the cited statutes speak for themselves.

24           26. Answering paragraph 26, Trans Union denies the allegations of  
25 this paragraph.

26           27. Answering paragraph 27, Trans Union denies the allegations of  
27 this paragraph.

28

1           28.    Answering paragraph 28, Trans Union denies the allegations of  
2 this paragraph.

3           29.    Answering paragraph 29, Trans Union denies the allegations of  
4 this paragraph.

5           30.    Answering paragraph 30, Trans Union denies the allegations of  
6 this paragraph.

7           31.    Answering paragraph 31, Trans Union denies the allegations of  
8 this paragraph.

9           32.    Answering paragraph 32, Trans Union denies the allegations of  
10 this paragraph.

11          33.    Answering paragraph 33, Trans Union denies the allegations of  
12 this paragraph.

13          34.    Answering paragraph 34, Trans Union incorporates by reference  
14 its answers to paragraphs 1 through 10 above as though fully set forth herein.

15          35.    Answering paragraph 35, the cited statutes speak for themselves.

16          36.    Answering paragraph 36, Trans Union lacks sufficient information  
17 or belief to admit or deny the averments of this paragraph, and on that basis denies  
18 them.

19          37.    Answering paragraph 37, Trans Union lacks sufficient information  
20 or belief to admit or deny the averments of this paragraph, and on that basis denies  
21 them.

22          38.    Answering paragraph 38, Trans Union lacks sufficient information  
23 or belief to admit or deny the averments of this paragraph, and on that basis denies  
24 them.

25          39.    Answering paragraph 39, Trans Union lacks sufficient information  
26 or belief to admit or deny the averments of this paragraph, and on that basis denies  
27 them.

28

1           40. Answering paragraph 40, Trans Union lacks sufficient information  
2 or belief to admit or deny the averments of this paragraph, and on that basis denies  
3 them.

4           41. Answering paragraph 41, Trans Union lacks sufficient information  
5 or belief to admit or deny the averments of this paragraph, and on that basis denies  
6 them.

7           42. Answering paragraph 42, Trans Union lacks sufficient information  
8 or belief to admit or deny the averments of this paragraph, and on that basis denies  
9 them.

10          43. Answering paragraph 43, Trans Union lacks sufficient information  
11 or belief to admit or deny the averments of this paragraph, and on that basis denies  
12 them.

13                           **AFFIRMATIVE DEFENSES**

14                           **FIRST DEFENSE**

15          44. Plaintiff has failed to state a claim against Trans Union upon  
16 which relief may be granted.

17                           **SECOND DEFENSE**

18          45. On information and belief, Trans Union alleges that any purported  
19 damages to Plaintiff, which Trans Union continues to deny, are the result of the acts  
20 or omissions of third parties over whom Trans Union has neither control nor  
21 responsibility.

22                           **THIRD DEFENSE**

23          46. Some or all of Plaintiff's claims against Trans Union are barred by  
24 applicable statutes of limitations, including, but not limited to, 15 U.S.C. §1681p.

25                           **FOURTH DEFENSE**

26          47. Trans Union has complied with the provisions of the FCRA, 15  
27 U.S.C. §§1681a-x, in its handling of Plaintiff's credit files, and is entitled to each and  
28 every defense afforded to it by that Act.

**FIFTH DEFENSE**

48. Plaintiff, though under a duty to do so, has failed and neglected to reasonably mitigate her alleged damages and, therefore, cannot recover against Trans Union, whether as alleged, or otherwise.

**SIXTH DEFENSE**

49. Without admitting that it has the burden of proof on the issue, Trans Union alleges that at all times relevant to the Complaint, it followed reasonable procedures to assure the maximum possible accuracy of the information contained in Plaintiff's Trans Union credit reports.

**SEVENTH DEFENSE**

50. At all times relevant to the Complaint, Trans Union conducted proper reinvestigation procedures concerning Plaintiff in preparing consumer reports related to Plaintiff.

**EIGHTH DEFENSE**

51. Any credit report or other information released by Trans Union to a third party concerning Plaintiff was done with Plaintiff's explicit or implicit consent.

**NINTH DEFENSE**

52. Trans Union is informed and believes, and thereon alleges, that any purported damages sustained by Plaintiff, were, in whole or in part, caused by her own actions and resulted from Plaintiff's own negligence, equal to or exceeding any alleged wrongdoing by Trans Union.

**TENTH DEFENSE**

53. Trans Union is informed and believes, and thereon alleges, that Plaintiff's Complaint is barred by the doctrine of Unclean Hands.

**ELEVENTH DEFENSE**

54. Trans Union is informed and believes, and thereon alleges, that some or all of Plaintiff's claims are barred by res judicata.

**TWELFTH DEFENSE**

55. Trans Union is informed and believes, and thereon alleges, that some or all of Plaintiff's claims are barred by collateral estoppel.

**THIRTEENTH DEFENSE**

56. Trans Union reserves the right to assert additional defenses that it may learn of through the course of discovery.

**PRAYER**

WHEREFORE, Defendant Trans Union LLC prays as follows:

1. That Plaintiff take nothing by reason of her Complaint;
2. That the Complaint be dismissed in its entirety as to Trans Union;
3. That Trans Union be awarded its costs of suit and reasonable attorneys' fees incurred herein; and
4. For such other and further relief as this Court may deem just and proper.

DATED: October 19, 2007

MUSICK, PEELER & GARRETT LLP

By: /s/ Donald E. Bradley  
Donald E. Bradley  
Attorneys for Trans Union LLC

**CERTIFICATE OF SERVICE**

STATE OF CALIFORNIA  
COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within entitled action; my business address is 650 Town Center Drive, Suite 1200, Costa Mesa, California 92626-1925.

On October 19, 2007, I served the foregoing document(s) described as **ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT TRANS UNION LLC TO PLAINTIFF'S COMPLAINT** on the interested parties in this action by placing a copy thereof enclosed in a sealed envelope addressed as follows:

**See Attached List**

☐ **BY PERSONAL DELIVERY.** I delivered such envelope by hand to the offices of the addressee.

☒ **BY E-SERVICE.** I caused such documents to be e-filed with the court who then serves such document via e-filing.

☒ **BY MAIL.** I caused such envelope with postage thereon fully prepaid to be placed in the U.S. Mail at Costa Mesa, California. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Costa Mesa, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY FACSIMILE TRANSMISSION.** I caused such document to be transmitted to the addressee(s) facsimile number(s) noted herein. The facsimile machine used complies with Rule 2003 and no error was reported by the machine. Pursuant to Rule 2008(e), I caused the machine to print a transmission

☐ **BY FEDERAL EXPRESS.** I caused such envelope to be deposited at the Federal Express office at Costa Mesa, California for guaranteed one/two day delivery with delivery charges prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for delivery by Federal Express delivery service. Under that practice, it would be deposited with the delivery service on that same day with delivery charges thereon fully prepaid at Costa Mesa, California in the ordinary course of business for delivery to the addressee.

Executed on October 19, 2007, at Costa Mesa, California.

☒ **(Federal)** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Karen S. Reisner  
Karen S. Reisner



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